



# Municipality of the District of West Hants

## STAFF REPORT

**TO:** Planning Advisory Committee

**FROM:** Jeanne Bourque, Planner  
Karen Dempsey, Planning Director

**DATE:** September 17, 2015

**SUBJECT:** **Proposed Municipal Planning Strategy Amendment with Concurrent Land Use By-law Amendment to enable a Fire Station at 22 Tonge Hill, Garlands Crossing, West Hants (PIDs 45003878 and 45222957)**

### ORIGIN

#### *Internal Recommendation by Staff*

A proposed amendment to the Municipal Planning Strategy (MPS) and concurrent amendment to the Land Use By-law (LUB) are being brought to the Planning Advisory Committee by staff for discussion and direction.

### BACKGROUND

Following receipt of notice from the Windsor Fire Department that they will withdraw fire services to West Hants as of October 23, 2015, municipal staff undertook to finalize the contingency plan developed for the eventuality of an unsuccessful mediation process. At the Committee of the Whole meeting of August 25th, planning staff recommended that Council enter into a development agreement with Lawrence Hart to enable a municipal fire station at 22 Tonge Hill, Garlands Crossing.

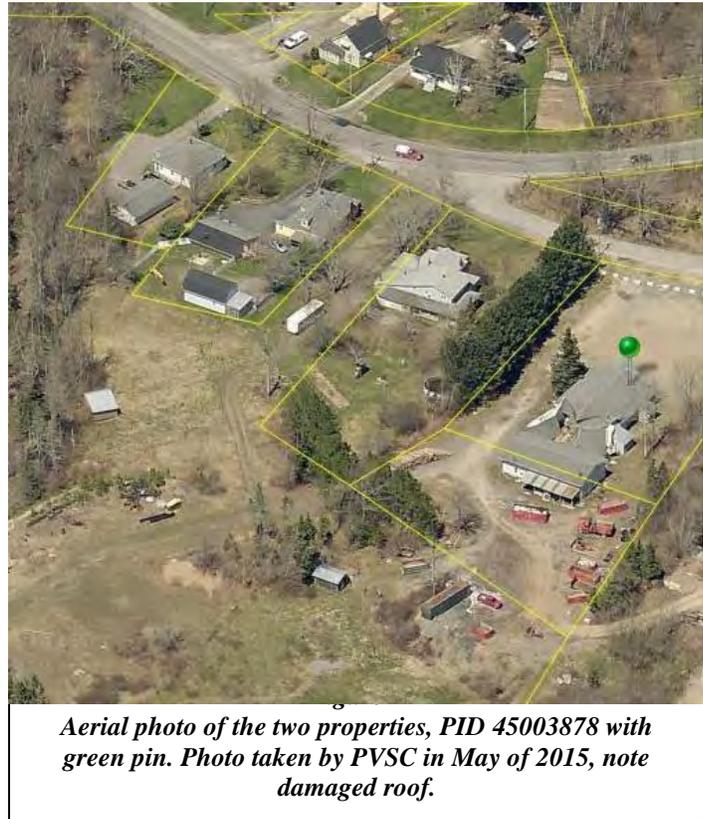
Since August 25th, planning staff have had an opportunity to consult extensively with municipal advisors from Service Nova Scotia and Municipal Affairs, as well as the municipal solicitor, Peter Rogers. Staff have determined that rather than enter into a development agreement, a minor amendment to the Municipal Planning Strategy and a concurrent amendment to the Land Use By-law should be considered. These amendments, unlike a development agreement, are not appealable to the Nova Scotia Utility and Review Board (NSUARB). This approach would be more effective and provide the municipality with a degree of certainty that the emergency service can be established without delay.

### PROPERTY LOCATION AND SURROUNDING LAND USES

The subject property is located on the south side of Tonge Hill, less than six hundred feet beyond the municipal boundary with the Town of Windsor (See Location Map, **Exhibit 1**). The property is made up of two separate parcels. The parcel that fronts on Tonge Hill (PID 45003878) is owned by Hants Equipment (2003) Limited, which is owned by Lawrence Hart. The back portion of the property (PID 45222957), belongs to Lawrence Hart. Together they are about 1.4 acres in size.

The subject property has about 140 feet of frontage on Tonge Hill, and is currently used for commercial purposes. Both parcels are zoned Highway Commercial (HC), and are located within the Commercial Core of the Three Mile Plains Growth Centre. The abutting property to the west is zoned General Commercial and is being used for a residential dwelling, while the properties to the east and across Tonge Hill are zoned Highway Commercial. A large parcel immediately to the south of the subject property is zoned Two Unit Residential (R-2) and although not developed residentially is use for various outdoor storage. The property to the north on the opposite side of Tonge Hill forms a portion of Swinamer's Home Building Centre, which is also zoned HC.

A portion of the building currently on the site was damaged by snow and ice accumulation in the winter of 2015. The municipality has agreed to repair and renovate the building so that it will be adequate to provide space for the storage and deployment of emergency response vehicles.



*Aerial photo of the two properties, PID 45003878 with green pin. Photo taken by PVSC in May of 2015, note damaged roof.*

## EXISTING MUNICIPAL PLANNING STRATEGY POLICY

MPS Section 5.8 deals with new institutional uses, which includes fire stations, in West Hants:

### **5.8 Institutional Development**

*Institutional uses, such as schools, churches, community centres and public indoor recreational facilities, act as focal points for the Growth Centres. Homes for special care and senior citizen housing that are operated, or licensed to operate, by the provincial government, provide a necessary service to the community. Existing institutional uses in the Growth Centres will be zoned in, but new ones will be considered only by development agreement to ensure issues such as traffic, parking, noise and other potentially negative effects on nearby properties can be carefully addressed.*

Policy 5.8.1 is the policy that allows Council to consider the development of new institutional uses on private property in the Growth Centres and establishes what criteria a development agreement must use:

**Policy 5.8.1** *It shall be the policy of Council to zone existing institutional uses in Growth Centres Institutional (I). The development of new institutional uses in Growth Centres shall be considered by development agreement pursuant to Policy 13.1.2.*

The MPS can be amended to provide other mechanisms to permit an institutional use such as a fire station on privately owned property, and that is what is being proposed. The amendment would allow a specific institutional use, in this case a fire station, to be located on a specific privately owned property as-of-right.

## PROPOSED MUNICIPAL PLANNING STRATEGY AMENDMENT

Planning staff recommend that a new policy be added, 5.8.2, to read as follows (see **Exhibit 2**):

**Policy 5.8.2** *Notwithstanding any other policies in this Strategy, PIDs 45003878 and 45222957 may be developed and used for emergency services operated by and for the Municipality.*

## EXISTING LAND USE BY-LAW

Section 14.0 of the LUB deals with the uses permitted in the Highway Commercial (HC) zone.

### 14.0 HIGHWAY COMMERCIAL (HC)

#### **Permitted Uses**

14.1 *The following uses shall be permitted in the Highway Commercial (HC) zone:*

- *Arts and crafts studios including photography*
- *Automobile service stations, car washes and repair centres*
- *Automobile, truck and motorcycle sales, service or rental establishments*
- *Building supply establishments*
- *Day care centres, licensed or non-licensed*
- *Dry cleaning and laundry establishments*
- *Entertainment, recreation and assembly uses within a wholly enclosed building*
- *Farm supplies and equipment sales and service*
- *Farm markets*
- *Funeral homes*
- *Garden and nursery sales and supplies*
- *Heavy equipment sales and service*
- *Hotels, motels and other tourist accommodations*
- *Kennels*
- *Licensed liquor establishments*
- *Local shopping centres*
- *Manufactured home sales*
- *Offices (**Amendment WHLUB 14-01 Effective January 22, 2015**)*
- *Post offices and postal outlets*
- *Recreational vehicle sales, service and rental establishments*
- *Recycling depots*
- *Repair and rental establishments*
- *Residential uses in the same building as the commercial use, subject to Section 14.5*
- *Restaurants, including drive-through and take-out establishments*
- *Retail stores*
- *Self Storage Operations (**Amendment GC1LUB 11-01 Effective October 7, 2011**)*
- *Service and personal service shops*
- *Taxi, train and bus stations*
- *Veterinary clinics and animal hospitals*
- *Wholesaling and wholesale sales*
- *Existing residential uses*

## PROPOSED LAND USE BY-LAW AMENDMENT

In order to implement the new policy 5.8.2, planning staff recommend that Section 14.0, Highway Commercial (HC), be amended by adding the following to the list of permitted uses (see **Exhibit 2**):

- **Fire Station on PIDs 45003878 and 45222957.**

## DISCUSSION

It quickly became apparent that in order to provide all properties within West Hants with adequate fire service coverage by October 23, 2015, establishing a new fire station in an existing building situated on a privately owned property would be the best option. However, when the policies of the Municipal Planning Strategy were written, the only scenario that was considered for the development of municipally provided services is that they would be built on municipally owned lands, and this could be done as-of-right in any zone or designation.

Policy 5.8.1 does allow Council to consider institutional uses on privately owned lands, but this must be done with a development agreement. Under the Municipal Government Act, development agreements may be appealed to the Nova Scotia Utility and Review Board (NSUARB). This would potentially create a situation where the Municipality could be delayed in the provision of fire services while an appeal was dealt with. This was not acceptable, especially in light of the fact that Planning staff consider that the use being proposed would be appropriate for both the zone and the location if it had been municipally owned.

The municipal solicitor advises that a minor amendment to the MPS and LUB would enable the establishment of a fire station on privately owned property at 22 Tonge Hill without requiring a development agreement. Under the Municipal Government Act (MGA), amendments to the MPS that are accompanied by an implementing LUB amendment may be done at the discretion of Council and are not appealable to the NSUARB.

### POLICY 16.3.1

Policy 16.3.1 is a general policy that sets out criteria to assess land use by-law amendments and development agreements. While a land use by-law amendment that is implementing a concurrent MPS amendment is not required to be assessed under this policy, it may be useful to consider how the criteria would have been applied.

**Policy 16.3.1** *In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:*

- (a) *whether the proposal is considered premature or inappropriate in terms of:*
  - (i) *the adequacy of sewer and water services;*

The subject property is serviced with central water and sewer systems.

- (ii) *the adequacy of school facilities;*

There will be no impact on school facilities.

- (iii) *the adequacy of fire protection;*

This clause is not applicable as the use being proposed is a fire station.

- (iv) *the adequacy of road networks adjacent to, or leading to the development; and*

Traffic will be periodically heavier as responders arrive for an emergency call, and as emergency vehicles leave. Both Tonge Hill and Highway 1 are under the jurisdiction of Nova Scotia Transportation and Infrastructure Renewal (NSTIR) who have approved the location for the proposed use.

- (v) *the financial capacity of the Municipality to absorb any costs relating to the development.*

The municipality is covering the costs of renovations required to make the existing building suitable for use as a fire station. As with any municipal service, there are costs related to the delivery of this service to residents, and this has been addressed in the decision of Council to change the fire service, and will be further addressed in future Council budget deliberations.

- (b) *whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;*

This site is serviced with central water and sewer systems.

- (c) *the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;*

The proposed development will periodically add to the traffic on Tonge Hill and Highway 1. However, as this is a provincially owned and maintained road, it is up to NSTIR to determine suitability of access, which has been provided. Rail traffic is not relevant. As with most rural roads, pedestrian traffic must use the shoulders of the roads. While there will be increased vehicular traffic accompanying the establishment of a new fire station, planning staff feel that there will be minimal impact on pedestrian circulation and safety.

- (d) *the adequacy of the dimensions and shape of the lot for the intended use;*

The subject property is 1.4 acres and is considered adequate to support the proposed use. All buildings will be required to meet the minimum setback requirements as outlined in LUB Section 14.0 Highway Commercial zone. The lot is considered to be of sufficient size to accommodate all parking requirements of section 5.30 of the Land use By-law.

- (e) *the pattern of development which the proposal might create;*

Section 5.0 of the MPS, *Growth Centre*, states that most of the future non-rural growth in West Hants will be encouraged to occur in the Growth Centres where municipal services can be provided. Garlands Crossing is within Three Mile Plains, one of the designated Growth Centres in West Hants. The subject property is also within the Commercial Core of the Growth Centre. Staff have considered that the development of a fire station will periodically generate noise and traffic as emergency responders arrive and emergency vehicles depart. This is in keeping with typical development patterns and the provision of municipal services. A municipal service such as a fire station is considered compatible with both commercial and residential uses.

- (f) *the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;*

Staff are not aware of any environmental conditions that would affect the suitability of the property for the proposed use. Nova Scotia Environment regulates all matters relating to watercourses and wetlands, including setbacks and erosion and sedimentation controls that must be used. The municipality is responsible to acquire all relevant permits and approvals.

- (g) *whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations;*

Staff are not aware of any other requirements that are applicable at this stage. If the proposed amendments are approved, then all municipal, provincial and federal regulations in regards to watercourse protection, storm water drainage, and any other matters covered in the *West Hants Land Use By-law* will have to be met. Planning staff are not aware of any requirement that this proposed development cannot meet.

(h) *any other matter required by relevant policies of this Strategy.*

All other matters have been addressed elsewhere in this report.

## **PUBLIC PARTICIPATION PROCESS**

The municipality's public participation policy requires that Planning Advisory Committee (PAC) hold a public information meeting prior to making a recommendation to Council to approve an amendment to the Municipal Planning Strategy. This meeting will be held immediately prior to the regularly scheduled September 17 PAC meeting, and will provide the public an opportunity to provide input on the amendment being considered. After consideration of the public input, a recommendation will be made by PAC to Council. If the staff recommendation is approved, then the motion will go to Council for first reading, and at that time a date will be set for a Public Hearing required under MGA section 205(3). This is tentatively scheduled to be held on October 13. All appropriate ads and notifications will be done following the usual process.

## **MUNICIPAL GOVERNMENT ACT**

Amendments to planning documents are subject to review by the Provincial Director of Planning under section 208 (1) of the Municipal Government Act (MGA). Once it has been determined that they meet all the requirements as stipulated in the MGA, then, *"the clerk shall place a written notice in a newspaper circulating in the municipality advising that the planning documents... are in effect as of the date of that notice..."*

## **RECOMMENDATION**

It is recommended:

**THAT COUNCIL APPROVE THE MUNICIPAL PLANNING STRATEGY AND CONCURRENT LAND USE BY-LAW AMENDMENTS AS CONTAINED IN "EXHIBIT 2" ATTACHED TO THIS STAFF REPORT, TO ENABLE THE ESTABLISHMENT OF A MUNICIPAL FIRE STATION AT 22 TONGE HILL, GARLANDS CROSSING, WEST HANTS (PIDs 45003878 AND 45222957).**

## CONCLUSION

A decision about whether or not to amend the Municipal Planning Strategy is entirely at Council's discretion and cannot be appealed to the Nova Scotia Utility and Review Board. Policy 16.1.1 of the MPS sets out the conditions under which Council may amend the Strategy outside of the eight year Plan Review:

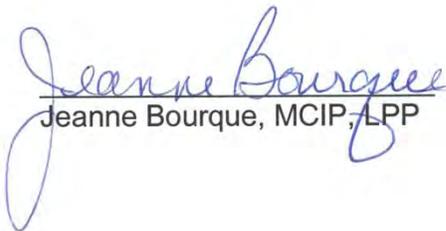
- Policy 16.1.1** *It shall be the policy of Council to review and make amendments to this Strategy:*
- (a) *when there is a requirement to change the Generalized Future Land Use Map (Map 1);*
  - (b) *to bring the Strategy in line with Provincial Statements of Interest; or*
  - (c) *when Council deems it necessary because of a change in policy intentions or the development environment.*

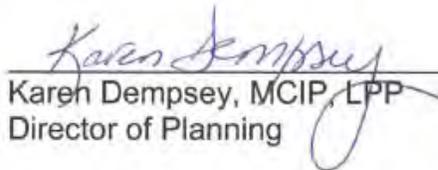
The proposed change fits under clause (c).

## OPTIONS

1. PAC could accept the staff report and recommend that Council approve the Municipal Planning Strategy amendment and concurrent Land Use By-law amendment.
2. PAC could recommend that Council refuse to adopt the MPS and LUB amendments. This is not the recommended action based on the municipality's requirement to establish a fire station within an extremely limited time frame.

Respectfully submitted,

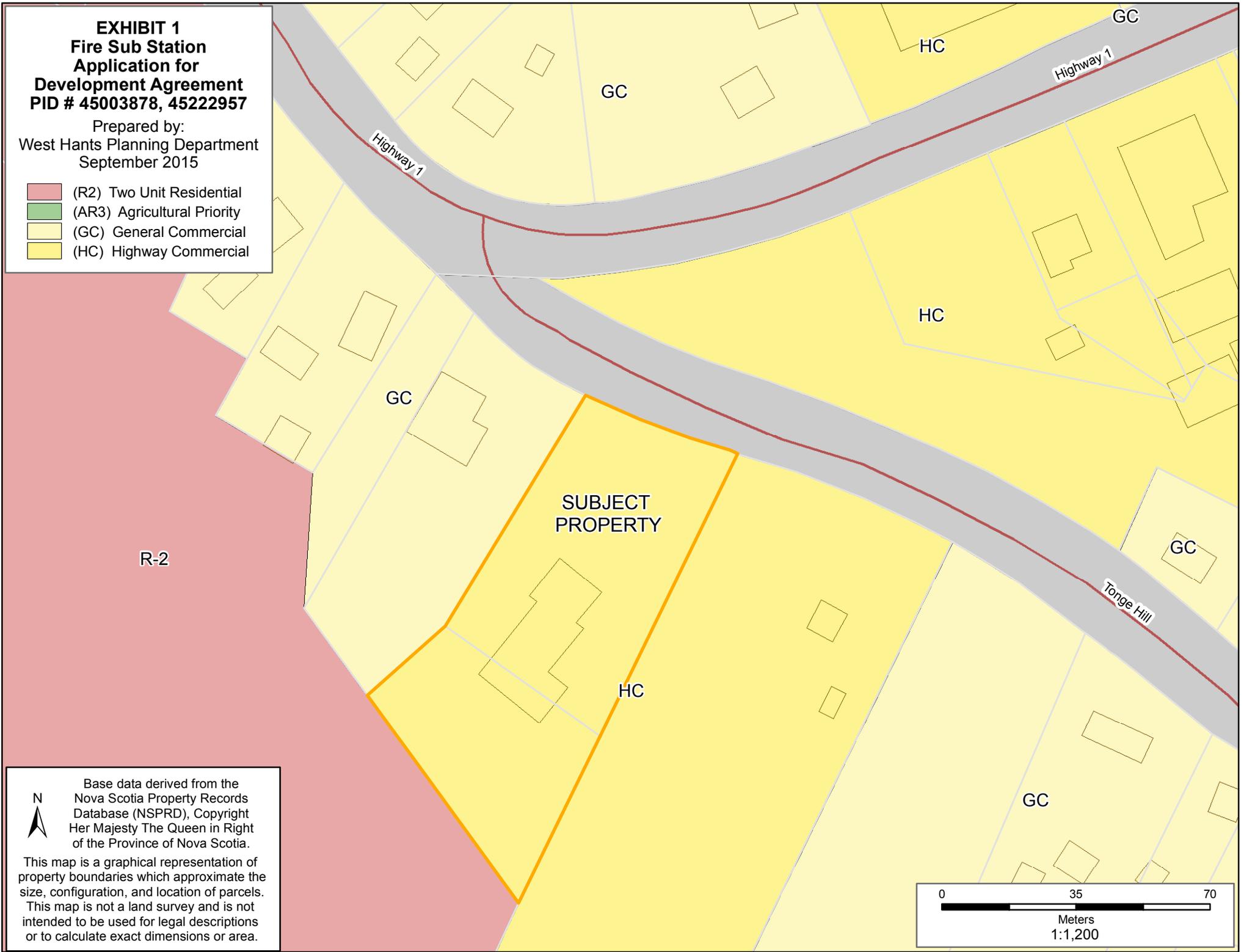
  
Jeanne Bourque, MCIP, LPP

  
Karen Dempsey, MCIP, LPP  
Director of Planning

**EXHIBIT 1**  
**Fire Sub Station**  
**Application for**  
**Development Agreement**  
**PID # 45003878, 45222957**

Prepared by:  
West Hants Planning Department  
September 2015

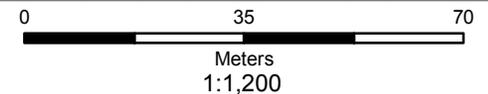
-  (R2) Two Unit Residential
-  (AR3) Agricultural Priority
-  (GC) General Commercial
-  (HC) Highway Commercial



Base data derived from the  
Nova Scotia Property Records  
Database (NSPRD), Copyright  
Her Majesty The Queen in Right  
of the Province of Nova Scotia.

This map is a graphical representation of  
property boundaries which approximate the  
size, configuration, and location of parcels.

This map is not a land survey and is not  
intended to be used for legal descriptions  
or to calculate exact dimensions or area.



## EXHIBIT 2

### WEST HANTS MUNICIPAL PLANNING STRATEGY AMENDMENT

Add Policy 5.8.2:

#### 5.8 Institutional Development

*Institutional uses, such as schools, churches, community centres and public indoor recreational facilities, act as focal points for the Growth Centres. Homes for special care and senior citizen housing that are operated, or licensed to operate, by the provincial government, provide a necessary service to the community. Existing institutional uses in the Growth Centres will be zoned in, but new ones will be considered only by development agreement to ensure issues such as traffic, parking, noise and other potentially negative effects on nearby properties can be carefully addressed.*

*Policy 5.8.1 It shall be the policy of Council to zone existing institutional uses in Growth Centres Institutional (I). The development of new institutional uses in Growth Centres shall be considered by development agreement pursuant to Policy 13.1.2.*

***Policy 5.8.2 Notwithstanding any other policies in this Strategy, PIDs 45003878 and 45222957 may be developed and used for municipally provided emergency services.***

### CONCURRENT WEST HANTS LAND USE BY-LAW AMENDMENT

In order to carry out MPS Policy 5.8.2, add the following use (**in bold print**) to the list of permitted uses in the Highway Commercial (HC) zone:

#### 14.1 The following uses shall be permitted in the Highway Commercial (HC) zone:

- Arts and crafts studios including photography
- Automobile service stations, car washes and repair centres
- Automobile, truck and motorcycle sales, service or rental establishments
- Building supply establishments
- Day care centres, licensed or non-licensed
- Dry cleaning and laundry establishments
- Entertainment, recreation and assembly uses within a wholly enclosed building
- Farm supplies and equipment sales and service
- Farm markets
- **Fire Station on PIDs 45003878 and 45222957**
- Funeral homes
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- Heavy equipment sales and service
- Hotels, motels and other tourist accommodations
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- Post offices and postal outlets
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